

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

**MANUEL J. CORRAL AND
LORENA CORRAL
Plaintiff,**

v.

**LIBERTY MUTUAL INSURANCE
COMPANY AND
KEVIN BROWN
Defendants.**

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CIVIL ACTION NO. 3:17-cv-128

**NOTICE OF REMOVAL OF ACTION UNDER
28 U.S.C. §§ 1332 AND 1441(b) (DIVERSITY)**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant Liberty Mutual Insurance Company (“Liberty”) hereby petitions this Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 for removal, on the basis of diversity jurisdiction, to the United States District Court for the Western District of Texas, Austin Division, of the action styled *Manuel J. Corral and Lorena Corral v. Liberty Mutual Insurance Company and Kevin Brown*; Cause No. 2017DCV0689; currently pending in the 243rd Judicial District Court of El Paso County, Texas (the “State Court Case”), and in support thereof would respectfully show this Court as follows:

**I.
FACTS**

1. Plaintiffs Manuel J. Corral and Lorena Corral (“Plaintiffs”) filed suit in the State Court Case on February 28, 2017, as the result of alleged delay or denial of benefits under their homeowners’ insurance policy. Plaintiffs allege that Liberty breached its contract with Plaintiffs, breached the common law duty of good faith and fair dealing, and violated provisions of the Texas Insurance Code and Texas Deceptive Trade Practices Act, made misrepresentations and

committed fraud in the adjustment and handling of Plaintiffs' claim by delaying and denying benefits following their loss on or about July 10, 2015. *See*, Plaintiff's Original Petition, ¶¶ A-Z. Plaintiffs seek actual, consequential damages, exemplary damages, punitive damages and additional damages under the Texas Insurance Code and attorneys' fees and costs for Liberty's alleged wrongful denial and statutory prompt payment penalties. Liberty denies that Plaintiffs are entitled to these benefits or damages.

2. Liberty was served with the Petition and citation on March 27, 2017. Liberty filed its Original Answer and Verified Denial on April 14, 2017. Defendant Kevin Brown ("Brown") has not been served with the Petition or citation. A true and correct copy of all pleadings, process, orders and correspondence served in this action is attached hereto as Exhibit "A" and incorporated herein by reference.

3. Pursuant to TEX. R. CIV. P. 47, Plaintiffs' Petition states that Plaintiffs seeks monetary relief over \$100,000.00 but not more than \$200,000.00. Petition at ¶ 1.

4. Complete diversity exists between Plaintiffs and Defendant Liberty now as well as on the date of filing of the State Court Case. Plaintiffs are citizens and residents of the State of Texas. Petition at ¶ 1. Defendant Liberty is an insurance company incorporated in Illinois with its principal place of business in Massachusetts. Liberty is a citizen of Illinois and Massachusetts and not the State of Texas.

5. Complete diversity exists between Plaintiffs and Defendant Brown now as well as on the date of filing of the State Court case. Contrary to Plaintiff's allegations in their Original Petition, Defendant Brown is a Florida resident. Brown has not been served with Plaintiff's Original Petition and citation.

6. Plaintiffs have made a jury demand in the State Court Case.

7. This is a civil action which may be removed to this Court by Defendant Liberty pursuant to the provisions of 28 U.S.C. §§ 1441(a) and 1332(a) in that it is between citizens of different states; it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs; and Liberty is not a citizen of the State of Texas.

II. PROCEDURAL REQUIREMENTS

8. This action is a civil action which may be removed to this Court by Liberty pursuant to the provisions of 28 U.S.C. §§ 1441(a) and 1332(a) in that it is between citizens of different states; it is a civil action wherein the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs; and Liberty is not a citizen of the State of Texas.

9. Pursuant to 28 U.S.C. §§ 1446(d) written notice of filing of this Notice will be given to all adverse parties promptly after the filing of this Notice.

10. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the Clerk of the 243rd Judicial District Court of El Paso County, Texas, promptly after the filing of this Notice.

11. Attached hereto and incorporated herein, are the following items:

- Exhibit A: A true and correct copy of all pleadings, process and orders served in this action
- Exhibit B: State Court Case Docket Sheet
- Exhibit C: List of all counsel of record
- Exhibit D: Index of all documents filed with the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant Liberty Mutual Insurance Company requests that this action be removed from the 243rd Judicial District Court of El Paso County, Texas to the United States District Court for the Western District of Texas, El Paso Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

HANNA & PLAUT, L.L.P.
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By: /s/ Laura D. Tubbs

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**ATTORNEYS FOR DEFENDANT LIBERTY
MUTUAL INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of April, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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